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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

2004 JUN 23 PM 12:41

U.S. DISTRICT COURT  
SOUTHERN DIST OHIO  
WESTERN DIVISION

LOUIS MERRIWEATHER,  
PETITIONER;

-VS-

JAMES ERWIN  
Respondent;

CASE NO.C-1-02-369

(Spiegel,J.;Hogan,M.J.)

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**SUPPLEMENTAL NEW AND DISCOVERED EVIDENCE**

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Now comes Petitioner and respectfully moves this court to accept his supplemental new and discovered evidence and add to petitioner's Prior new and discovered amended brief,(see Doc.17),for the following reason.


**MEMORANDUM IN SUPPORT OF SUPPLEMENTAL NEW AND DISCOVERED EVIDENCE**

On 4/28/04 this court stayed Petitioner's amended motion on new and discovered evidence till Petitioner exhaust his state remedies,(see Doc.17).The court is now appraised that on Feb.6,2004 the First Appellate Court of Appeals in Hamilton County granted Petitioner a delayed appeal,however Petitioner's motion for appointment for counsel was denied in appeal No.C-030948.(See attached order).Then on April 15,2004 in Petitioner's appeal no.C-030948 was placed on the Appellate's Court accelerated calendar,and a scheduling order was issued on April 15,2004;(1) ordering the complete records and documentaries including trial court's alleged sentencing transcript of June 18,1997,case number B-9702196 to be filed with the Appellate court on or before 06/09/04.(See attached scheduling order).

In respond to this order for the complete records of **"all"** trial court's proceeding especially the alleged sentencing hearing of June 18,1997,Mr.Gregory Hartmann's office the Hamilton County Clerk of Courts,per Rule 11B Appellate Procedure filed such records and documentaries on the 3rd of June 2004 in appeal case number C-030948 for the State case number B-9702196,[ **excluding trial court proceeding.**(See attached notice).Might Petitioner remind this court that in **June of 2002**,this court also in its'shown cause order to the Respondent requested this **same** alleged trial court proceeding of June 18,1997 and the Respondent then too failed to produce this transcript,instead Respondent raised the issue of Petition being procedurally barred,Respondent then states in the affirmative that Petitioner is procedurally barred because of an alleged guilty plea agreement allegetly presented in open-court and signed on June 18,1997,Respondent also states that Petitioner was duly and properly sentenced on June 18,1997 on Petitioner's alleged voluntarily guilty pleas,Respondent has been blowing smoke to cover up the fact that there is no **"verifiable"** sentencing trial court transcript.Now over two (2) years later it is still a very serious questionable issue of the real alleged sentencing transcript of June 18,1997,factually showing that Petitioner was fairly sentenced on June 18,1997 and which complied with all Petitioner's State,Federal and U.S.Constitutional rights,with-out a real verifiable trial court proceeding of June 18,1997,Petitioner's claims of denial of "due process protection during trial court proceeding ,and denial of a fair and impartial hearing has again been given greater weight,unproductive transcript also gives superior weight to Petitioner's claims of ineffectiveness of assistance of trial counsel which was prejudicial toward Petitioner and adversely affected Petitioner's alleged trial court proceeding and sentencing.

It is well settled law in Ohio that the Court's speaks through its' transcripts, and when such trial court transcripts of proceeding are either silent or missing "the Court does not speak". Perhaps its' now time for the Respondent to either produced the now "tainted" trial court transcript of alleged proceeding of June 18, 1997, two Court's have ordered the trial court proceeding of June 18, 1997 and the Respondent has still not produced, after 7½ years of involuntarily imprisonment, it is now time to lay this matter to rest for all times, is not 7½ years of false imprisonment enough for a unfounded, unproven alleged offense of rape enough? Where does this stop? How long much the truth be denied and Petitioner continually falsely imprison in the name of penology? Is this the true justice system that Petitioner voluntarily shared his blood for in Vietnam, is this the system worth giving one life for, then to be treated in such an unfair manner? Where is the justice that was promised to U.S. born citizens?

Respectfully submitted:

  
Louis McKriweather, #348-451  
P.O. Box 5500  
Chillicothe, Ohio 45601-0990

By My Hand this 18th day of June 2004.

CERIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing supplemental was forward<sup>too</sup> Mr. Stuart A. Cole (0020237) Asst. Atty. General, at 150 E. Gay St., 16th Floor, Columbus, Ohio 43215, on this 21<sup>st</sup> day of June 2004, by regular first class mail per-paided.

